

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-209764

DATE: March 22, 1983

MATTER OF: John F. Clarke - Actual Subsistence
Expenses

DIGEST:

An employee who was returning from temporary duty remained overnight in San Francisco, a high rate geographical area (HRGA), when his connecting flight home was cancelled. Although the Federal Travel Regulations (FTR) normally preclude reimbursement for actual subsistence expenses where the HRGA is only an en route or stopover point and no official business is performed, this employee may be reimbursed for actual expenses due to the unusual circumstances of the travel. See FTR para. 1-8.1c.

The issue presented is whether an employee, who remains overnight in a high rate geographical area because his return flight is cancelled, may be reimbursed for actual subsistence expenses in lieu of per diem. We hold that the employee may be reimbursed actual subsistence expenses due to the unusual circumstances of the travel.

This decision responds to a request from Mr. V. Joseph Startari, Authorized Certifying Officer, Department of Energy (DOE), concerning the claim of Mr. John F. Clarke, a DOE employee, for reimbursement of actual expenses incurred during a layover in San Francisco.

Mr. Clarke was returning from temporary duty in Japan to his headquarters in Washington, D.C., when, upon landing in San Francisco, he was informed that his flight to Washington, D.C., had been cancelled. Although no other flights were available immediately, Mr. Clarke waited until 4:30 p.m. for one to be scheduled. At that point, he decided to remain overnight in San Francisco and proceed to Washington, D.C. the following morning. Notwithstanding the designation of San Francisco as a high rate geographical (HRGA), the Department of Energy reimbursed Mr. Clarke on a

024940


per diem basis (\$50), reasoning that his stay in San Francisco had been a mere stopover. Mr. Clarke contends, however, that he should be reimbursed for all of his actual expenses (\$68.10) because, through no fault of his own, he was compelled to stay overnight in San Francisco.

A Federal employee may be reimbursed for actual expenses incurred incident to authorized travel in a high rate geographical area, but the regulations promulgated by the General Services Administration mandate per diem reimbursement whenever the HRGA is merely a stopover point at which no official duties are performed. Federal Travel Regulations para. 1-8.1b, FPMR 101-7 (September 1981) (FTR). However, that paragraph also provides authority to reimburse actual subsistence expenses under FTR para. 1-8.1c and 1-8.2a(2) if the travel to a HRGA also involves unusual circumstances. We believe Mr. Clarke may be reimbursed for actual expenses under the authority of FTR para. 1-8.1c due to the unusual circumstances of his travel.

Under FTR para. 1-8.1c an employee may be paid actual and necessary expenses when the maximum per diem allowance otherwise payable is determined to be inadequate due to the unusual circumstances of the travel assignment. This paragraph lists four examples of situations which involve unusual circumstances, and, although none of those examples fit Mr. Clarke's situation, we have held that the regulation by its terms is not a limiting regulation, and other situations not specifically listed may qualify for actual expenses. See Dale Heald, B-200081, March 25, 1981.

Mr. Clarke stayed overnight in San Francisco involuntarily and through no fault of his own, so his situation may be distinguished from that of an employee who travels to an HRGA for his own convenience. See William J. O'Brien, B-187344, February 23, 1977. Although Mr. Clarke performed no temporary duty in San Francisco, his situation is analogous to that in the Heald case where the employee "of necessity" obtained lodgings in an HRGA for two nights while performing temporary duty nearby in a per diem area.

Accordingly, we conclude that Mr. Clarke may be reimbursed for his actual subsistence expenses under these circumstances.

for 
Comptroller General
of the United States